



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

December 11, 1953

Hon. Dudley Brummett
County Attorney
Lubbock County
Lubbock, Texas

Letter Opinion No. MS-110

Re: Construction of Art. 7331,
V.C.S., as amended by Ch.
362, Acts 53rd Leg., R.S.
1953, p. 883.

Dear Mr. Brummett:

You request the opinion of this office upon the construction of Article 7331, V.C.S., as amended by Chapter 362, Acts of the 53rd Legislature, 1953. This statute insofar as pertinent to this opinion reads as follows:

"For calculating and preparing redemption certificates and receipts, reporting and crediting redemptions, posting Comptroller's redemption numbers on the delinquent tax record or annual delinquent list, mailing certificates of redemption to taxpayers after approval by the Comptroller, and for issuing receipts or certificates of redemption for property shown on the annual delinquent list, the tax collector shall be entitled to a fee of One Dollar (\$1) for each correct assessment of land to be sold, except that if the total amount of said costs so permitted exceeds ten per cent (10%) of the total amount of the taxes, interest and penalties due before assessing any such costs, then the total cost allowable shall be limited to ten per cent (10%) of such total amount of the taxes, interest and penalties, or One Dollar (\$1) whichever is the larger, said fee to be taxed as costs against the delinquent. Correct assessment as herein used means the inventory of all properties owned by an individual for any one (1) year.
...."

First, you are advised that the tax assessor-collector is entitled to receive a fee of \$1.00 for each annual correct assessment, as that term is defined in the statute, unless this amount which should be designated "cost so permitted" exceeds 10% of the total amount of the taxes, interest and penalties for all the years involved. In other words, there is no

Hon. Dudley Brummett - page 2 MS-110

change in the prior law until 10% of the total amount of the taxes, interest and penalties exceeds the total amount of the costs so allowed, which is the total for all of the years involved, allowing \$1.00 cost for each year. To illustrate, suppose that twenty years of delinquent taxes are involved, and allowing \$1.00 for each annual assessment, the collector's cost would be \$20.00, and suppose further that the total amount of taxes, interest and penalties for all the years is \$500.00; 10% of \$500.00 would be \$50.00. But the collector would be entitled to only \$20.00 in costs and not \$50.00 or 10% of the amount of the total taxes, interest and penalties. But suppose that the total amount of the taxes, interest and penalties in the same situation was \$150.00; 10% of this amount would be \$15.00, and this would constitute the collector's costs and not \$20.00, because the total amount of the costs so permitted, namely \$20.00, exceeds \$15.00, 10% of the total amount of the taxes, interest and penalties due before assessing any such costs. In other words, the 10% formula does not apply except in instances where the costs so permitted, or \$1.00 for each year, is greater than 10% of the total of the taxes, interest and penalties. Then in that event, the 10% formula does apply. In no event is a collector's cost ever less than \$1.00.

In brief, where the costs so permitted, that is \$1.00 for each annual assessment, is less than 10% of the taxes, interest and penalties, \$1.00 should be collected for each year just as under the prior statute. But when the costs so permitted, that is \$1.00 for each year assessed, becomes greater than 10% of the taxes, interest and penalties, then the 10% applies; or, in other words, the total of the costs so permitted is cut down to 10% of the taxes, interest and penalties.

Yours very truly,

L. P. Lollar
Assistant Attorney General

LPL:bt:wb